

Exhibit A

Current TRS State Contract with AT&T

Virginia Information Technologies Agency



COMMONWEALTH OF VIRGINIA

AND

AT&T CORPORATION

CONTRACT #: 040201-AT&T

Standard Telecommunication Relay Services

VaRelay

**MODIFICATION #1
TO
CONTRACT NUMBER VA-040201-AT&T
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
AT&T INC.**

This MODIFICATION #1 is an Agreement between the Commonwealth of Virginia, through its Virginia Information Technologies Agency (VITA), hereinafter referred to as "Commonwealth" or "VITA," and AT&T Inc. (AT&T), hereinafter referred to as "Contractor" or "AT&T," relating to the modification of Contract VA-040201-AT&T. This Modification #1 is hereby incorporated into and made an integral part of Contract VA-040201-AT&T.

The purpose of this Modification #1 is to document both parties' agreement concerning Contract renewal, changes to pricing effective on February 1, 2007, various changes to services, and changes to AT&T's corporate information.

Reference: Page 1, Section I, entitled "Purpose":

The merger between AT&T Corp. and SBC Communications Inc. has resulted in a new company name of AT&T Inc. ("AT&T"). The offices of record for AT&T for this Contract have also relocated since the execution of the original contract from Morristown, NJ to 2600 Camino Ramon, Room 1E452, San Ramon, CA 94583.

Reference: Page 4, Section III, entitled "Contract Term," and Page 13, Section VIII, Paragraph P, entitled "Term":

The term of Contract VA-040201-AT&T shall be extended from February 1, 2007, through January 31, 2008.

Reference: Page 18, Section VIII, entitled "Contractual Terms and Conditions," Paragraph CC "Price Escalation/Descalation":

AT&T will continue to provide TRS in the Commonwealth of Virginia under the existing terms and conditions of the Contract at the new price of \$3.33 per session minute, effective February 1, 2007.

Reference: Page 40, Attachment C, entitled "System Standards," Section 2(1) "Service Reliability":

Parties agree to add the following Item vii to Section 2(1):

"vii. The Contractor will provide a Contingency Plan that will ensure the Virginia Relay Service continues to be fully supported in accordance with the contract requirements in the event that the Norton TRS Center becomes the 'last center standing.' This Contingency Plan will be shared with the Virginia Department of the Deaf and Hard of Hearing ('VDDHH') and will be updated as business needs or conditions change."

Reference: Page 46, Attachment E, entitled "Minimum Relay Staffing Requirements," Section 2(a)iv:

Parties agree that the individual identified in Attachment 1 to this Modification will serve as the Account Manager required under this section. In the event that the individual identified in Attachment 1 ceases to be employed at the VA Relay Center, then parties will agree to designate an alternate person.

Reference: Page 47, Attachment E, entitled "Minimum Relay Staffing Requirements," Section 7 "ASL Translation/Interpretation Staff":

Parties agree to add the following sentence at the end of this section:

"VITA agrees to accept copies of Virginia Quality Assurance Screening ('VQAS') certificates issued to existing Relay Operators employed at the VA Relay Center as proof of compliance with the requirement of ASL Translation/Interpretation Staff as stated herein.."

Reference: Page 51, Attachment G, entitled "Billing Standards / Access – Long Distance, Toll Calls & Flat Rate Calling Plans," Section 2 "Carrier of Choice Not Available":

Parties agree that currently there is no technical solution to being able to offer any Voice Over Internet Protocol ("VoIP") provider as an option for the carrier of choice requirement under this section. Parties will continue to explore options and opportunities that may become available in the future for participation of VoIP providers in a carrier of choice solution.

Reference: Page 66, Attachment L, entitled "Operator Standards," Section 1(l) "Keep the User Informed":

Parties agree to insert the following language between the second and third sentences of this section, effective February 1, 2007:

"To the extent possible, Relay Operators will convey to the VA Relay text user the tone and mood of the voice caller. VITA understands that this information may be subjective and judgmental and for this reason will allow this information to be prefaced with a phrase such as 'sounds like.'"

Reference: Page 83, Attachment N, entitled "Enhanced Relay Features," Section 3 "Relay Calls Received via Text-Messaging Equipment":

Parties agree to add the following language at the end of this section:

"Availability of this VA Relay Text Pager Service shall be expanded to 24 hours a day/ 7 days a week with a trial period to begin in September 2006 and full implementation by Feb 1, 2007."

Reference: Page 83, Attachment N, entitled "Enhanced Relay Features":

Parties agree to add the following Section 5 to this Attachment:

"5. Virginia Conference Relay Service ("VCRS") – Contractor shall provide an operator "captioning" feature for text relay users participating in teleconferences. Both parties agree to establish criteria and requirements for this service which will be trialed in September 2006 with full implementation by February 1, 2007."

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-040201-AT&T and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

AT&T INC.

COMMONWEALTH OF VIRGINIA

BY: Steve J. Corie

BY: Lemuel C. Stewart, Jr.

NAME: Steve J. Corie

NAME: Lemuel C. Stewart, Jr.

TITLE: Regional Vice President

TITLE: CIO of the Commonwealth

DATE: 8/10/06

DATE: August 21, 2006

**Attachment 1 to Modification #1
to
Contract Number VA-040201-AT&T**

SUBJECT: VARelay Center Manager (location manager)

Pursuant to Modification #1 to Contract VA-040201-AT&T, the parties agree to designate the following individual as the VARelay Center Manager located at the Norton center:

Ms. Rosemarie Riggs, Resource Manager in the VA Relay Center

This constitutes compliance with Section 2(a)iv of Contract Attachment E.

**MODIFICATION #2
TO
CONTRACT NUMBER VA-040201-AT&T
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
AT&T INC.**

This MODIFICATION #2 is an Agreement between the Commonwealth of Virginia, through its Virginia Information Technologies Agency (VITA), hereinafter referred to as "Commonwealth" or "VITA," and AT&T Inc. (AT&T), hereinafter referred to as "Contractor" or "AT&T," relating to the modification of Contract VA-040201-AT&T. This Modification #2 is hereby incorporated into and made an integral part of Contract VA-040201-AT&T.

The purpose of this Modification #2 is to document both parties' agreement concerning a change to the Commonwealth's address for invoicing/billing record.

Reference: Page 4, Section V, entitled "Invoicing for Relay Services/Billing Record";

Parties agree to change the address for invoicing for Relay Services/Billing Record to the following, effective January 1, 2007:

VA Dept for the Deaf & Hard of Hearing
VDDHH Relay Manager
1602 Rolling Hills Drive, Suite 203
Richmond, VA 23229-5012

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-040201-AT&T and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

AT&T INC.

COMMONWEALTH OF VIRGINIA

BY: Steve Corie

BY: Doug Leslie

NAME: Steve Corie

NAME: Doug Leslie

TITLE: Regional Vice President

TITLE: Strategic Sourcing Specialist

DATE: January 16, 2007

DATE: January 30, 2007

**MODIFICATION #3
TO
CONTRACT NUMBER VA-040201-AT&T
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
AT&T INC.**

This MODIFICATION #3 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and AT&T Inc. hereinafter referred to as "Contractor". This Modification is hereby incorporated into and made an integral part of Contract VA-040201-AT&T (the Agreement).

The purpose of this Modification is to document both parties' agreement to extend the term of this contract for one year, from February 1, 2008 through January 31, 2009. AT&T will continue to provide TRS in the Commonwealth under the existing terms and conditions of the Agreement at the new price of \$4.77 per minute. Should the 2008 Virginia General Assembly legislate that staffing levels change at the Norton site; this price may be renegotiated effective July 1, 2008 for the remainder of the contract extension period.

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-040201-AT&T and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

AT&T INC.

BY: 

NAME: L. TANYA JOHNSON

TITLE: DIRECTOR - CUSTOMER COMMUNICATION SOLUTIONS

DATE: 6/22/07

COMMONWEALTH OF VIRGINIA

BY: 

NAME: JAMES T. ROBERTS

TITLE: DIRECTOR OF FINANCE & ADMINISTRATION

DATE: 7/2/07

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- I. **Purpose:** This Contract establishes the provisions and contractual terms and conditions in which the Commonwealth of Virginia, through its Virginia Information Technologies Agency (VITA), hereinafter referred to as the "Commonwealth" or "VITA", 110 South 7th Street, Richmond, VA 23219, on behalf of the Virginia Department for the Deaf and Hard of Hearing will purchase Standard Telecommunication Relay Services (TRS), hereinafter referred to as "VaRelay" from AT&T Corp. (AT&T), hereinafter referred to as the "Contractor." AT&T Relay Services Headquarters, Room N163, 340 Mt. Kemble Avenue, Morristown, NJ 07960.

This contract is for the provision of unrestricted, 24 hours/day, 7 days/week VaRelay Services that allow the Commonwealth's communicatively disabled individual's access to the switched public telephone network for communications to and from all other persons in the Commonwealth, the nation and the world. Equipment purchases are not included or provided pursuant to this Contract.

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a Contractor because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

- II. **Contract Users:** Citizens of the Commonwealth and all public bodies as defined by the *Code of Virginia*, §2.2-4301, herein after referred to as the "Users."
- III. **Contract Term:** The initial "Term" of this Contract will be for a period of three (3) years in accordance with pricing documented herein commencing on February 1, 2004. Upon mutual agreement the Contract may be renewed for four (4) one-year periods.
- IV. **Contract Execution:** The procurement giving rise to this Contract was done in accordance with the *Virginia Public Procurement Act (VPPA)*. The Commonwealth of Virginia, through its Virginia Information Technologies Agency, issued a Request For Proposal 2003-030 to prospective Contractors for Standard Telecommunication Relay Services. Contractor responded with a proposal, participated in negotiations to the referenced Request For Proposal and desires to provide said services per the agreed upon provisions, terms and conditions set forth and included herein. Definitions are provided as Attachment A.
- V. **Invoicing for Relay Services/Billing Record:** The Contractor agrees to invoice the Commonwealth monthly in arrears and send to:

Commonwealth of Virginia
State Corporation Commission
Division of Communication
P. O. Box 1197
Richmond, VA 23218
ATTN: Mr. Steve Bradley

The State Corporation Commission will be responsible for payment to the Contractor in accordance with the Prompt Payment Act.

Pricing for the first three (3) years at the following rates per **session** minute:

Year 1: \$2.045

Year 2: \$2.25

Year 3: \$2.50

VI. Contractor Reporting Requirements:

The Contractor will provide reports as designated in the following items in an electronic format compatible with Microsoft Office products according to the schedules indicated. All reports will become the property of the Commonwealth (VDDHH), e.g., not copyrighted by the provider, and will become public record. In addition to the designated reports, the Contractor will provide additional periodic, ad hoc, or other reports as requested by the Commonwealth/VDDHH. All reports will be presented in both tabular and graphic format unless otherwise approved by the VDDHH or VITA Contract Administrator. The Commonwealth may modify the data collected and required report formats at any time. When the requested report is other than those shown below (except when investigating unusual circumstances such as complete or partial loss of service), the Commonwealth will give at least thirty days notice before the date the report is due. The Contractor will, upon the request of the Commonwealth, provide the Commonwealth with professional interpretation, analysis and explanation of any reports provided. Within two months of award, the Contractor will meet with the VDDHH Contract Administrator to determine all types of data available for reporting purposes to set up any additional regular monthly reports.

A. Daily Traffic Reports

Daily traffic or call volume reports shall capture all Virginia Relay TRS activity for a twenty-four hour period beginning daily at 12:00 A.M. The reports shall be submitted to the Department in an electronic format no later than 9 A.M. of the first scheduled Department working day after the close of the reporting period. All minutes shown in Daily Traffic reports shall be shown to the hundredth decimal place of a minute, as in 6.25 minutes.

The minimally required data for inclusion in Daily Traffic Reports appear in Attachment N.

B. Monthly Traffic Reports

Monthly traffic or call volume reports will capture all Virginia Relay TRS activity of one calendar month unless otherwise requested by the VDDHH Contract Administrator. The reports will be submitted to the VDDHH Contract Administrator in an electronic format no later than the 15th calendar day following the month of reported activity or the next scheduled working day for the Commonwealth if the 15th falls on a weekend or holiday. All minutes shown in

Monthly Traffic reports will be shown to the hundredth decimal place of a minute, as in 6.25 minutes.

The minimally required data for inclusion in Monthly Traffic Reports appear in Attachment N.

The Contractor will provide the VDDHH Contract Administrator, an Internet Reporting feature that provides secured on-line access to Monthly Traffic Reports and Customer Contact Summaries. The Commonwealth can employ either Netscape or Internet Explorer to retrieve the monthly data with the same level of detail as would be expected on hard copies. The Contractor will provide up to three (3) login/passwords that can be used by the VDDHH Contract Administrator or any other authorized user to gain secured access to either current or past reports, which can be printed in needed. The reports will be delivered per the schedule and criteria for minutes specified above.

C. Annual Report

A required Annual Report will summarize operations for the contract year with statistical summaries of usage, trends, complaints, traffic analysis, problem resolution initiatives, service performance, and traffic projections for future years. The annual report will be due to the VDDHH Contract Administrator within 45 calendar days of the end of the contract year reported.

D. Consumer Feedback Reports and Annual Log Summary of Consumer Complaints

1. Daily Consumer Complaint reports will capture all customer feedback received at the VaRelay Center for a twenty-four hour period beginning daily at 12:00 A.M. The reports will be submitted to the VDDHH Contract Administrator in an electronic format no later than 9 A.M. of the first scheduled Commonwealth working day after the close of the reporting period. Reports will capture the nature and type of feedback, customer or call information, and any attempts, either successful or unsuccessful, to reach complaint resolution.
2. Monthly report, summarizing all feedback received, subject of each feedback item, and a description of how any complaint was or will be resolved is also required.
3. In addition to these daily and monthly detailed feedback reports, an annual narrative report and log summary will be prepared and provided to the VDDHH Contract Administrator for submission to the FCC. The deadline for the annual narrative and summary is 15 calendar days prior to the FCC published due date for the log.

- E. **Quarterly NPA/NXX Report of Virginia Relay Traffic**
Spreadsheet and graphic/pictorial representations of VaRelay traffic by area code, local exchange lines, and unduplicated number of calls will be provided to the VDDHH Contract Administrator on a quarterly basis by the Contractor.
- F. **Monthly Disallowed Carrier-of-Choice Report**
A monthly report of all instances where a caller's outbound carrier of choice request was not allowed is required. The report will list the name of the carrier, indicating the number of outbound call requests denied to that carrier, sorted by date. (Note that live user requests to a Relay Operator override profile carrier of choice information on a per-call basis.) In the event that a customer's carrier of choice is not currently available on the Contractor's list, the Contractor will contact the Carrier with clear instructions for inclusion on their list.
- G. **IP and VRS Relay Monthly Report**
The Contractor will submit a monthly report on the number of internet protocol or video relay service calls processed by the Contractor, regardless of location, that terminate in Virginia.
- H. **Small Businesses, Minority and Women-owned Businesses Reporting Requirement (SWAM)**

The Contractor will submit to the VITA Contract Administrator, via e-mail. Quarterly reports are to show actual SWAM-owned business subcontract results. The report will provide a list to include the following:
1. SWAM-owned business subcontractors, the dollar value of each subcontract;
 2. A description of the type of work to be performed under each subcontract; and
 3. A telephone number and contact name for each subcontractor.
- This information is to be provided **separately** for small businesses, minority-owned businesses and women-owned businesses.

VII. Meeting Requirements

The Contractor will be required to meet in person or via video or teleconferencing equipment with VDDHH staff on a weekly basis, or as otherwise requested by the VDDHH Contract Administrator. These meetings will include participation by the VaRelay Center Accounts Manager, the Accounts Manager located at VDDHH and any provider's subcontractors or other provider personnel as required by the Department to address specific issues.

VIII. Contractual Terms and Conditions

A. Applicable Laws and Courts

This Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

B. Anti-Discrimination

The Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that Contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every Contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this Contract, the Contractor agrees as follows:
 - a) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

C. Ethics in Public Contracting

The Contractor certifies their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

D. Immigration Reform and Control Act of 1986

Contractor certifies that they do not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

E. Debarment Status

The Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on Contracts for the type of goods and/or services covered by this Contract, nor are they an agent of any person or entity that is currently so debarred.

F. Antitrust

By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Contract.

G. Payment

1. To Prime Contractor:

- a) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/Contract. All invoices shall show the state Contract number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c) All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.
- d) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e) **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a) A Contractor awarded a Contract under this solicitation is hereby obligated:

- 1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or
- 2) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- 3) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

H. Modifications

This contract may be modified in accordance with §2.2-4309 of the Code of Virginia. Such modifications may only be made by the representatives authorized to do so. No modifications to this contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

This Contract is a requirements type contract and therefore the approval of the Governor of the Commonwealth of Virginia or his authorized designee for the increase of more than twenty five percent (25%) or \$50,000.00 whichever is greater on a firm fixed price basis contract does not apply.

I. Default

In case of failure to provide services in accordance with the Contract terms and conditions, the Commonwealth, after due written notice, may procure those services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

J. Taxes

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon

request, and can be obtained online at <http://www.tax.state.va.us/>. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

K. Drug-Free Workplace

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

L. Nondiscrimination of Contractors

The Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

M. Location of the Telecommunication Relay Service (TRS) Center

The TRS center will be located in the city of Norton, VA.

N. Insurance

The Contractor certifies that it will have the following insurance coverages at the time the Contract is awarded. For construction Contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that the it and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Worker's Compensation - Statutory requirements and benefits.
2. Employers Liability - \$100,000.
3. Commercial General Liability - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

O. Vendors Manual

This Contract is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at <http://www.dgs.state.va.us/dps> under "Manuals."

P. Term

This Agreement shall take effect on February 1, 2004 and shall continue for three (3) years. The parties, upon mutual agreement, may extend this Agreement for up to four (4) additional one year periods. The parties will enter into negotiations regarding renewal of the Agreement approximately ninety (90) days prior to the expiration of the original term or any extension thereof.

Q. Testing and Inspection

The Commonwealth reserves the right to conduct any test/inspection it may deem

N. Insurance

The Contractor certifies that it will have the following insurance coverages at the time the Contract is awarded. For construction Contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that it and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Worker's Compensation - Statutory requirements and benefits.
2. Employers Liability - \$100,000.
3. Commercial General Liability - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

O. Vendors Manual

This Contract is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at <http://www.dgs.state.va.us/dps> under "Manuals."

P. Term

This Agreement shall take effect on February 1, 2004 and shall continue for three (3) years. The parties, upon mutual agreement, may extend this Agreement for up to four (4) additional one year periods. The parties will enter into negotiations regarding renewal of the Agreement approximately ninety (90) days prior to the expiration of the original term or any extension thereof.

Q. Testing and Inspection

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure services conform to the requirements of the Contract.

R. Assignment of Contract

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Contract shall not be assignable, in whole or in part, to any other party without the Virginia Information Technologies Agency (VITA's) written consent, and that any purported assignment or transfer without such consent shall be null and void. If any law limits the right of the parties to prohibit assignment or nonconsensual assignments, the procedure for any such assignment and the effective date of the assignment shall be as follows. The Contractor shall give the VITA purchasing office prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. If the assignment is for payment remittance, the written notice will be on VITA's "Assignment Notice / Payment Instruction" form and will provide all information requested on that form. Copies of the form may be obtained from the VITA Supply Chain Management Office. Upon VITA's acknowledgment of receipt of the properly executed form, the Assignee shall notify the Controller, VITA of the assignment and shall supply the Controller, with a copy of the properly executed form. Any payments made prior to receipt of such notification and form shall not be covered by this assignment.

In the event VITA receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Contract, Contractor agrees that payment or other performance in respect of those rights shall not be due until at least thirty days after VITA's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. Supply Chain Management of VITA will promptly notify the Contractor of any assignment notice it receives

S. Breach

The Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to provide any Service within the time limits set forth in this Agreement; (b) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (c) fails to provide a written response to the Commonwealth's Show Cause Notice within ten days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Services. All costs for deinstallation shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

T. Availability of Funds

All payment obligations under this Contract are contingent upon funds for such purposes being appropriated and legally available for expenditure. In the event on non-appropriation of funds by the Legislature or unavailability of funds for the items under this Contract, the Commonwealth will terminate this Contract for those goods or services for which funds have not been appropriated or are not legally available for expenditure, without further obligation. Written notice will be provided to the Contractor as soon as possible after legislative action is completed or it is otherwise determined that funds will not be available for purposes of satisfying payment obligations under this Contract.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Contract for goods or services dependent on such federal funds without further obligation.

U. Contractual Records

The Contractor shall make all Contractual books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of three years after final payment.

Contractual records include, but are not limited to, this Agreement and all executed Orders, Attachments, modifications, invoices, and correspondence between the parties to this Agreement.

V. Prime Contractor Responsibility

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

1. The Contractor shall act as prime Contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.
2. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's product or services, and that such other party has agreed in writing that it has no objection thereto.

W. Contractual Disputes

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure, if any, authorized by Section 2.2-4365, Code of Virginia.

The Virginia Information Technologies Agency, its officers, agents and employees, are executing this Agreement, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services identified in this Agreement and need not be joined as a party to any dispute that may arise thereunder.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

X. Limitation of Liability

To the maximum extent permitted by applicable law, the Contractor's liability under this Contract for loss or damages to the Commonwealth caused by use of any defective or deficient supplies, products, equipment and/or services delivered under this Contract or for breach shall not exceed two (2) times the amount paid to the Contractor under this Contract during the twelve month period preceding the event or circumstance giving rise to such liability. This limitation of liability is per incident. The limitation and exclusion of damages in the foregoing sentences will not apply, however, to Contractor's liability arising from: (a) personal injury or death; (b) defect or deficiency caused by intentional misconduct or reckless indifference on the part of the Contractor; or (c) circumstances where the Contract expressly provides a right to indemnification or reimbursement.